

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

GENE ZARITSKY,

Plaintiff,

vs

JACKIE CRAWFORD, et al.,

Defendants.

Case No. 3:07-cv-00006-JCM-VPC

ORDER

Presently before the court is Magistrate Judge Cooke's report and recommendation (#63) denying plaintiff's motion for a temporary restraining order (#53) and granting in part and denying in part defendants' motion to dismiss (# 36).

Report and recommendation (#63) to which plaintiff Zaritsky failed to specifically object

Judge Cooke entered her report and recommendation (#63) denying plaintiff Gene Allen Zaritsky's motion for a temporary restraining order (#53) on July 9, 2008.

Local Rule IB 3-1 states that any party wishing to object to the ruling of the magistrate judge on a pretrial matter shall file a specific objection within ten (10) days from the date of service of the magistrate judge's ruling. Under Local Rule IB 1-4 and 28 U.S.C. § 636(b)(1)(B), a magistrate judge shall file findings and recommendations for disposition by the district judge. The district judge "shall

1 make a de novo determination of those portions of the report or specified proposed findings or
2 recommendations to which objection is made [and] may accept, reject, or modify, in whole or in part,
3 the findings or recommendations.” 28 U.S.C. § 636(b)(1). Under Local Rule IB 3-2, the district judge
4 may also receive further evidence or remand the same to the magistrate with instructions.

5 Plaintiff filed an objection (#64) to Judge Cooke’s report and recommendation but did not
6 specifically object to the denial of the motion for temporary restraining order. Moreover, plaintiff has
7 since been transferred to the Ely State Prison, rendering his motion moot. Pursuant to 28 U.S.C. §
8 636(b)(1) and Local Rule IB 3-1, upon review of Judge Cooke’s report and recommendation, and
9 without specific objection being filed, the court affirms the recommendation to deny plaintiff’s motion
10 for a temporary restraining order.

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12 Report and recommendation (#63) to which plaintiff Zaritsky objected

13 Judge Cooke further recommended granting in part and denying in part defendants’ motion to
14 dismiss (# 36) on July 9, 2008.

15 Judge Cook recommended granting defendants’ motion to dismiss (# 36) as to all defendants in
16 their official capacity and entirely as to defendant LeGrand. Plaintiff filed an objection (#64) to Judge
17 Cooke’s report and recommendation but did not specifically object to the dismissal of all defendants in
18 their official capacity and entirely as to defendant LeGrand.

19 The principle is well established that plaintiffs may not sue state officials in their official capacity
20 for monetary damages. *Bank of Lake Tahoe v. Bank of America*, 318 F.3d 914, 918 (9th Cir. 2003).
21 Pursuant to 28 U.S.C. § 636(b)(1) and Local Rule IB 3-1, upon review of Judge Cooke’s report and
22 recommendation, and there being no specific objection filed, the court affirms the recommendation to
23 grant the motion to dismiss as to all defendants in their official capacities and entirely as to defendant
24 LeGrand.

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